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04 MAR 2008

Michael J. Scheer
DICKSTEIN SHAPIRO LLP
1177 AVENUE OF THE AMERICAS
41st Floor
NEW YORK NY 10036-2714

In re Application of

SASAKI, et al.

Application No.: 10/598,737

PCT No.: PCT/JP05/02697

Int. Filing Date: 21 February 2005

Priority Date: 10 March 2004

Attorney Docket No.: W1878.0238

For: FUEL CONTAINER FOR FUEL CELL, FUEL
CELL USING THE SAME, AND OPERATION
METHOD OF FUEL CELL

COMMUNICATION

This Communication is in response to applicant's "NOTIFICATION OF MISSING REQUIREMENTS UNDER 35 U.S.C. 371 IN THE UNITED STATES DESIGNATED/ELECTED OFFICE" filed 14 June 2007 in the United States Patent and Trademark Office (USPTO).

BACKGROUND

On 21 February 2005, applicant filed international application PCT/JP05/02697 which claimed priority to an earlier application filed 10 March 2004. A copy of the international application was communicated to the United States Patent and Trademark Office from the International Bureau on 22 September 2005. Pursuant to 37 CFR 1.495, the thirty-month period for paying the basic national fee in the United States expired at midnight on 10 September 2006.

On 08 September 2006, applicant filed a transmittal letter for entry into the national stage in the United States, which was accompanied by the requisite basic national fee as required by 35 U.S.C. 371(c)(1); an English translation of the international application; an Information Disclosure Statement, an executed combined declaration and power of attorney and a First Preliminary Amendment.

On 23 April 2007, applicant was mailed a NOTIFICATION OF MISSING REQUIREMENTS UNDER 35 U.S.C. 371 (Form PCT/DO/EO/905) informing applicant of the need to provide a signed oath or declaration of the inventor, in compliance with 37 CFR 1.497(a) and (b), identifying the application by the international application number and international filing date and provide payment of the surcharge for providing an oath or declaration later than thirty months from the priority date. Applicant was informed that clarification was needed as to

the 3rd inventor's name as it was spelled differently on the declaration and the published international application.

On 14 June 2007, applicant filed the response considered herein.

DISCUSSION

As detailed in applicant's response and the Form DO/EO/905 mailed 23 April 2007 the third listed inventor is identified in the published international application as Shouji Sekino whereas the declaration lists the inventor, and is executed by, Shoji Sekino. Manual of Patent Examining Procedure (MPEP) § 201.03 provides the procedures where a typographical or transliteration error in the spelling of an inventor's name is discovered. As discussed in that section, in such an instance a petition is not required: "Where a typographical or transliteration error in the spelling of an inventor's name is discovered, the Office should simply be notified of the error. A new oath or declaration is not required. Reference to the notification will be made on the previously filed oath or declaration." Applicant's present filing contains such a statement from counsel regarding the correct name of the third inventor: Shoji Sekino. This is the name which appears on the filed declaration. As such, the declaration filed 08 September 2006 is acceptable.

CONCLUSION

This application will be given an international application filing date of 21 February 2005 and a date of **08 September 2006** under 35 U.S.C. 371(c)(1), (c)(2) and (c)(4).

This application is being returned to the DO/EO/US for processing in accordance with this decision.



Derek A. Putonen
Attorney Advisor
Office of PCT Legal Administration
Tel: (571) 272-3294
Fax: (571) 273-0459